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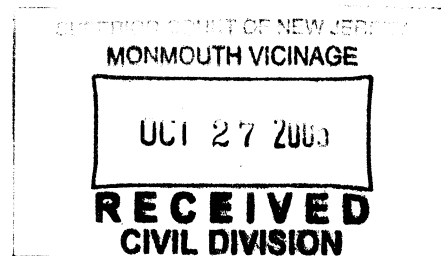
PETER C. HARVEY, Attorney General of
New Jersey, and KIMBERLY S. RICKETTS,
Director of the New Jersey Division of Consumer
Affairs,

Plaintiffs,

v.

ALL-TECH CONSTRUCTION, INC.; AMERI
COAST CONSTRUCTION; AMERICOAST
CONSTRUCTION; AMERICOAST
CONTRACTORS; AMERI CO. MASON CONT.;
ALL-TECH CONST.; ALL-TECH
CONSTRUCTION; XYZ CORPORATIONS 1-10, a
fictitious designation of business entities whose
identities are currently unknown to Plaintiff and who
are engaged in the business of providing home
improvement services to consumers; FRANK
BARONE, individually and as owner, officer,
director, shareholder, founder, manager, agent,
servant, employee and/or representative of ALL-
TECH CONSTRUCTION, INC., AMERI COAST
CONSTRUCTION, AMERICOAST
CONSTRUCTION, AMERICOAST
CONTRACTORS, AMERI CO. MASON CONT.,
ALL-TECH CONST.; ALL-TECH
CONSTRUCTION, and XYZ CORPORATIONS 1-
10; JOHN AND JANE DOES 1-10, a fictitious
designation of individuals whose identities are
currently unknown to Plaintiffs, individually and as
owners, officers, directors, shareholders, founders,
managers, agents, servants,
employees and/or representatives of
ALL-TECH CONSTRUCTION, INC.; AMERI
COAST CONSTRUCTION; AMERICOAST
CONSTRUCTION; AMERICOAST
CONTRACTORS; AMERI CO. MASON CONT.;
ALL-TECH CONST. and ALL-TECH:
CONSTRUCTION; and XYZ CORPORATIONS, 1-
10,

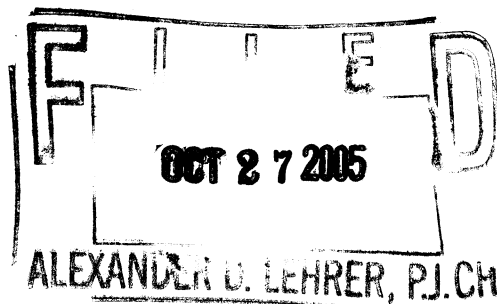
Defendants.



SUPERIOR COURT OF NEW JERSEY
MONMOUTH COUNTY
CHANCERY DIVISION
DOCKET NO.

C 309-05

CIVIL ACTION



Plaintiffs Peter C. Harvey, Attorney General of the State of New Jersey, with offices located at 124 Halsey Street, Fifth Floor, Newark, New Jersey, and Kimberly S. Ricketts, Director of the New Jersey Division of Consumer Affairs, with offices located at 124 Halsey Street, Seventh Floor, Newark, New Jersey, by way of this Complaint state:

JURISDICTION AND PARTIES

1. The Attorney General of the State of New Jersey (“Attorney General”) is charged with the responsibility of enforcing the New Jersey Consumer Fraud Act (“CFA”), N.J.S.A. 56:8-1 et seq., and all regulations promulgated thereunder, (the “Regulations”), N.J.A.C. 13:45A-1.1 et seq. The Director of the New Jersey Division of Consumer Affairs (“Director”) is charged with the responsibility of administering the CFA and the Regulations on behalf of the Attorney General.

2. By this action, the Attorney General and the Director (collectively referred to as “Plaintiffs”) seek injunctive and other relief for violations of the CFA. Plaintiffs brings this action pursuant to their authority under the CFA, specifically N.J.S.A. 56:8-8, 56:8-11, 56:8-13 and 56:8-19.

3. Venue is proper in Monmouth County, pursuant to R. 4:3-2, because it is a county in which at least one defendant has advertised and/or conducted business and/or resides.

4. Defendant Frank Barone (“Barone”) is a New Jersey resident, currently incarcerated at the Monmouth County Correctional Institution in Freehold, New Jersey.

5. Upon information and belief, at all relevant times, defendant Barone has been the owner, officer, director, shareholder, founder, manager, agent, servant, employee, and/or representative of All-Tech Construction, Inc., Ameri Coast Construction, Americoast Construction, Americoast Contractors, Americo Mason Cont., All-Tech Const. and All-Tech Construction.

6. On or about December 3, 1993, defendant Barone registered All Tech Construction as a trade name with the Office of the Ocean County Clerk.

7. Upon information and belief, Ameri Coast Construction, Americoast Construction, Americoast Contractors, Americo Mason Cont. and All-Tech Const. are not registered as trade names in the State of New Jersey (the "State").

8. Upon information and belief, defendant All-Tech Construction has maintained a principal place of business at 63 Mizzen Drive, Brick, New Jersey 08723.

9. Upon information and belief, defendant All-Tech Construction Co. has maintained principal places of business at 123 Pinehammock Road, Brick, New Jersey 08723 and 20 Newark Pompton Turnpike, Wayne, New Jersey 07470.

10. Upon information and belief, defendants Ameri Coast Construction and Americoast Construction have maintained a principal place of business at 1581 Grant Avenue, Whiting, New Jersey 08735.

11. Upon information and belief, defendant Ameri Co. Mason Cont. has maintained a principal place of business at 46 Niagara Street, Dumont, New Jersey 07628..

12. Upon information and belief, All-Tech Const. has maintained a principal place of business at 506 Main Ave., Bay Head, New Jersey 08742..

13. Upon information and belief, John and Jane Does 1 through 10 are fictitious individuals meant to represent the owners, officers, directors, shareholders, founders, managers, agents, servants, employees, and/or representatives of All-Tech Construction, Inc., Ameri Coast Construction, Americoast Construction, Americoast Contractors, Americo Mason Cont., All-Tech Const. and All-Tech Construction who have been involved in the conduct that gives rise to this

Complaint, but are heretofore unknown to Plaintiffs. As these defendants are identified, Plaintiffs shall amend the Complaint to include them.

14. Upon information and belief, XYZ Corporations 1 through 10 are fictitious corporations meant to represent any additional corporations who have been involved in the conduct that gives rise to this Complaint, but are heretofore unknown to Plaintiffs. As these defendants are identified, Plaintiffs shall amend the Complaint to include them.

15. Defendants Barone, All-Tech Construction, Inc., Ameri Coast Construction, Americoast Construction, Americoast Contractors, Americo Mason Cont., All-Tech Const. and All-Tech Construction are collectively referred to as "Defendants."

GENERAL ALLEGATIONS COMMON TO ALL COUNTS

16. Since at least October 1999, the Defendants have engaged in the business of offering and providing home improvement services to consumers within the State including, but not limited to, flooring, wall repair/replacement/removal, French drain and sump pump installation, basement finishing, sidewalk and patio removal/replacement, fireplace repair, foundation repair/waterproofing, vinyl siding removal, stone façade installation and tree removal.

17. Upon information and belief, Defendants have entered into home improvement contracts with consumers in this State and elsewhere to perform home improvement services including, but not limited to, flooring, wall repair/replacement/removal, French drain and sump pump installation, basement finishing, sidewalk and patio removal/replacement, fireplace repair, foundation repair/waterproofing, vinyl siding removal, stone façade installation and tree removal.

COUNT I

VIOLATION OF THE CFA BY DEFENDANTS (UNCONSCIONABLE COMMERCIAL PRACTICES)

18. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 17 above as if more fully set forth herein.

19. The CFA, N.J.S.A. 56:8-2, prohibits:

The act, use or employment by any person of any unconscionable commercial practice, deception, fraud, false pretense, false promise, misrepresentation, or the knowing [] concealment, suppression, or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise....

20. In the operation of their home improvement business, Defendants have engaged in the use of unconscionable commercial practices, false promises, misrepresentations and/or the knowing concealment, suppression or omission of material facts.

21. Defendants have engaged in unconscionable commercial practices including, but not limited to, the following:

- a. Failing to commence the work specified in home improvement contracts;
- b. Failing to complete the work specified in home improvement contracts;
- c. Failing to provide consumers with timely written notice of a delay in the commencement or completion of home improvement work;
- d. Performing work that failed to comply with the specifications of the home improvement contract;
- e. Failing to return to consumers' homes to complete home improvement work;
- f. Accepting payment for home improvement work that Defendants never commenced;
- g. Accepting payment for home improvement work that Defendants never completed;

- h. Accepting payment for home improvement work that Defendants completed in a substandard manner;
- i. Offering discounts to consumers if they made cash payments, then accepting such payments without intending to complete the work required;
- j. Failing to provide consumers with refunds for home improvement work that they never commenced;
- k. Failing to provide consumers with refunds for home improvement work that Defendants never completed;
- l. Failing to honor the terms of a guarantee and/or warranty for materials and/or labor provided in connection with a home improvement contract;
- m. Failing to obtain the requisite permits prior to commencing home improvement work or at any time thereafter; and
- n. Failing to respond to consumers' telephone calls and/or written correspondence in a timely manner or at all.

22. Each unconscionable commercial practice by Defendants constitutes a separate violation under the CFA, N.J.S.A. 56:8-2.

COUNT II

VIOLATION OF THE CFA BY DEFENDANTS (FALSE PROMISES, MISREPRESENTATIONS AND KNOWING OMISSIONS OF MATERIAL FACT)

23. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 22 above as if more fully set forth herein.

24. In the operation of their home improvement business, Defendants have made false promises and/or misrepresentations including, but not limited to, the following:

- a. Representing that home improvement work would be commenced by a date certain and then failing to begin on or before that date, or at all.
- b. Promising to refund a consumer's deposit, and then failing to do so;

- c. Representing that Defendants had mailed a refund to a consumer when, in fact, such was not done;
- d. Misrepresenting that the home improvement work was guaranteed for thirty (30) years, and then failing to make the requisite repairs;
- e. Representing that a deposit was to be applied to the purchase of materials, and then failing to apply the deposit for such purchase; and
- f. Representing their business address at a location where they were not in fact situated.

25. In the operation of their home improvement business, Defendants have engaged in knowing omissions of material fact including, but not limited to, the following:

- a. Failing to include the date or time period on or within which the work is to be commenced;
- b. Failing to include the date or time period on or within which the work is to be completed;
- c. Failing to notify consumers in writing of changes to the dates or time periods stated in written home improvement contracts;
- d. Failing to advise consumers of a delay in the commencement or completion of the home improvement work;
- f. Failing to obtain the requisite permits to perform home improvement work;
- g. Failing to include in home improvement contracts itemized pricing for labor and/or materials; and
- h. Failing to include in home improvement contracts the consumer's signature.

26. Each false promise, misrepresentation and/or knowing omission of material fact by Defendants constitutes a separate violation under the CFA, N.J.S.A. 56:8-2.

COUNT III

VIOLATION OF THE HOME IMPROVEMENT PRACTICES REGULATIONS BY DEFENDANTS

27. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 26 above as if more fully set forth herein.

28. The Regulations Governing Home Improvement Practices, N.J.A.C. 13:45A-16.1 et seq. (“Home Improvement Regulations”), promulgated pursuant to the CFA, among other things, prohibit certain acts and practices of a seller in connection with the sale, advertisement or performance of home improvement contracts.

29. Defendants are “seller[s]” within the definition of N.J.A.C. 13:45A-16.1.

30. At all relevant times, Defendants entered into “home improvement contracts” within the definition of N.J.A.C. 13:45A-16.1.

31. The Home Improvement Regulations provide, in pertinent part:

- a. Without limiting any other practices which may be unlawful under the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq., utilization of a seller of the following acts and practices involving the sale, attempted sale, advertisement or performance of home improvements shall be unlawful hereunder:

7. Performance:

- ii. Fail to begin or complete work on the date or within the time period specified in the home improvement contract, or as otherwise represented, unless the delay is for reason of labor stoppage; unavailability of supplies or materials, unavoidable casualties, or any other cause beyond seller’s control. Any changes in the dates or time periods stated in a written contract shall be agreed to in writing; or
- iii. Fail to give timely written notice to the buyer of reasons beyond the seller’s control for any delay in performance, and when the work will begin or be completed.

[N.J.A.C. 13:45A-16.2(a)(7)(ii), (iii).]

32. The Home Improvement Regulations further require sellers to ensure that all applicable permits have been obtained before they begin work as follows:

10. Building Permits

- i. No seller contracting for the making of home improvements shall commence work until he is sure that all applicable state or local building and construction permits have been issued as required under state laws or local ordinances....

[N.J.A.C. 13:45a-16.2(a)(10)(i).]

33. Additionally, the Home Improvement Regulations include a writing requirement for contracts priced in excess of \$200.00 and provide, in pertinent part:

12. Home improvement contract requirements - writing requirement: All home improvement contracts for a purchase price in excess of \$200.00, and all changes in the terms and conditions thereof shall be in writing. Home improvement contracts which are required by this subsection to be in writing, and all changes in the terms and conditions thereof, shall be signed by all parties thereto, and shall clearly and accurately set forth in legible form all terms and conditions of the contract, including, but not limited to, the following:

- i. The legal name and business address of seller, including the legal name and business address of the sales representative or agent who solicited or negotiated the contract for the seller;
- ii. A description of the work to be done and the principal products and materials to be used or installed in performance of the contract. The description shall include, where applicable, the name, make, size, capacity, model, and model year of principal products or fixtures to be installed, and the type, grade, quality, size or quantity of principal building or construction material to be used.

....

- iv. The dates or time period on or within the work is to begin and be completed by seller;

[N.J.A.C. 13:45A-16.2(a)(12)(i), (ii), (iv).]

34. Defendants violated the Home Improvement Regulations by engaging in certain conduct including, but not limited to:

- a. Failing to provide consumers with timely written notice of a delay in the commencement or completion of home improvement work;
- b. Failing to obtain consumers' written consent to any changes in the commencement and/or completion dates specified in the home improvement contract;
- c. Failing to include in home improvement contracts the dates or time periods on or within which the work is to commence;
- d. Failing to include in home improvement contracts the dates or time periods within which the work is to be completed;
- e. Commencing home improvement work without obtaining the requisite permits;
- f. Failing to include in home improvement contracts a description of the principal products and materials to be used or installed; and
- g. Failing to include in home improvement contracts the consumer's signature.

35. Defendants' conduct constitutes multiple violations of the Home Improvement Regulations, N.J.A.C. 13:45A-1.1 et seq., each of which constitutes a per se violation of the CFA, N.J.S.A. 56:8-1 et seq.

COUNT IV

VIOLATIONS OF THE CFA AND/OR THE HOME IMPROVEMENT REGULATIONS BY DEFENDANT BARONE

36. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 35 above as if more fully set forth at length herein.

37. At all relevant times, Barone was owner, officer, director, shareholder, founder, manager, agent, servant, employee and/or representative of All-Tech Construction, Inc., Ameri Coast

Construction, Construction, Americoast Contractors, Ameri Co. Mason Cont., All-tech Const., All-tech Construction, and XYZ Corporations 1-10, and controlled and directed the activities of those entities.

38. Barone is personally liable for the violations of the CFA and/or the Home Improvement Regulations committed by All-Tech Construction, Inc., Ameri Coast Construction, Construction, Americoast Contractors, Ameri Co. Mason Cont., All-tech Const., All-tech Construction, and XYZ Corporations 1-10, and controlled and directed the activities of those entities.

PRAYER FOR RELIEF

WHEREFORE, based upon the foregoing allegations, Plaintiffs respectfully request that the Court enter judgment:

- (a) Finding that the acts and omissions of Defendants constitute multiple instances of unlawful practices in violations of the CFA, N.J.S.A. 56:8-1 et seq., and the Regulations promulgated thereunder, specifically the Home Improvement Regulations, N.J.A.C. 13:45A-16.1 et seq.;
- (b) Permanently enjoining Defendants and their owners, agents, employees and representatives and all other persons or entities directly under its control, from engaging in, continuing to engage in, or doing any acts or practices in violation of the CFA, N.J.S.A. 56:8-1 et seq., and the Home Improvement Regulations, N.J.A.C. 13:45A-16.1 et seq., including, but not limited to, the acts and practices alleged in this Complaint;
- (c) Directing the assessment of restitution amounts against Defendants to restore any affected person, whether or not named in this Complaint, any money or real or personal property acquired by means of any alleged practice herein to be unlawful, as authorized by the CFA, N.J.S.A. 56:8-8;
- (d) Assessing the maximum statutory civil penalties against Defendants for each and every violation of the CFA, in accordance with N.J.S.A. 56:8-13;
- (e) Directing the assessment of costs and fees, including attorneys' fees, against Defendants for the use of the State of New Jersey, as authorized by the CFA, N.J.S.A. 56:8-11 and N.J.S.A. 56:8-19; and
- (f) Granting such other relief as the interest of justice may require.

PETER C. HARVEY
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By: _____

Jonathan D. Rudolph
Deputy Attorney General

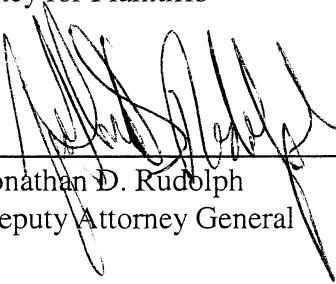
Dated: October 26, 2005
Newark, New Jersey

RULE 4:5-1 CERTIFICATION

I certify, to the best of my information and belief, that the matter in controversy in this action involving the aforementioned violations of the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1, et seq. is not the subject of any other action pending in any other court of this State. I further certify that the matter in controversy in this action is not the subject of a pending arbitration proceeding, nor is any other action or arbitration proceeding contemplated. I certify that there is no other party who should be joined in this action.

PETER C. HARVEY
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By: _____

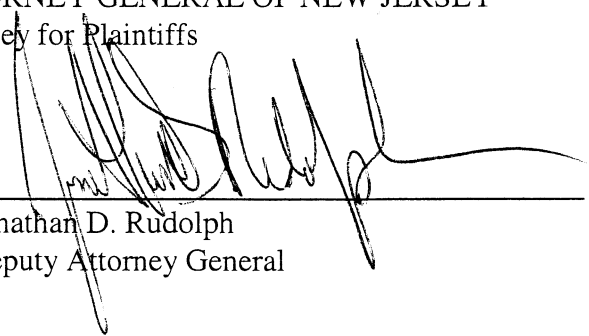

Jonathan D. Rudolph
Deputy Attorney General

Dated: October 26, 2005
Newark, New Jersey

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, Jonathan D. Rudolph, Deputy Attorney General, is hereby designated as trial counsel on behalf of Plaintiffs.

PETER C. HARVEY
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By: 
Jonathan D. Rudolph
Deputy Attorney General

Dated: October 26, 2005
Newark, New Jersey